IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.122 OF 2002

The Commissioner of Income-tax
Bombay City-X, Bombay .. Appellant.

V/s.

M/s.Bhandary Mettallurgical
Corporation Limited .. Respondent.

Ms.S.V. Bharucha i/b. H.D.Rathod for the appellant.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 11TH AUGUST, 2004.

P.C. :

. Heard Ms.S.V. Bharucha, the learned counsel for the revenue-appellant.

2. In the memorandum of appeal, two substantial questions of law have been proposed which according to the revenue arise in this appeal. The said questions are thus :

> "1. Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in deleting the addition of Rs.53,43,842/- made by the Assessing Officer on account of confirmed under valuation of closing stock as on

31.3.89 ?

2. Whether in the facts and circumstances of the case and in law the Hon'ble ITAT was justified in deleting the addition of Rs.284,577/- made by the Assessing Officer as claimed by the assessee under the provisions of section 80HHC without submission of Form No.10 CCAC alongwith with the return of income?"

3. Insofar as the aforesaid question No.1 is concerned, in view of the judgment of the Supreme Court in the case of Commissioner of Income Tax V/s. Indo Nippon Chemicals Co. Limited [261 ITR 275] the view taken by the Tribunal cannot be faulted.

4. As regards question No.2, it is not in dispute that though along with the return the assessee did not furnish certificate of the Chartered Accountant in form No.10 CCAC but the same was furnished during the course of assessment proceedings. Since the certificate of the Chartered Accountant in form No.10 CCAC was already furnished to the Assessing Officer during the assessment proceedings, the view taken by the Tribunal that it was only a technical breach by the assessee and that the assessee should not be denied of his legal claim, cannot be faulted.

5. The appeal does not deserve to be admitted

as no substantial question of law arises.

6. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)